

Rod D. Margo (State Bar No.: 097706)
Jennifer J. Johnston (State Bar No.: 125737)
CONDON & FORSYTH LLP
1901 Avenue of the Stars, Suite 850
Los Angeles, California 90067-6010
Telephone: (310) 557-2030
Facsimile: (310) 557-1299
Email: rmargo@condonlaw.com
Email: jjohnston@condonlaw.com

Attorneys for Defendant
BUMBO (PTY) LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WENDY D. WHITSON, etc., et al.,
Plaintiff,
vs.
BUMBO, et al.,
Defendants.

Case No. CV-07-5597 CW

DECLARATION OF JENNIFER J.
JOHNSTON IN SUPPORT OF
BUMBO (PTY) LTD.'S MOTION
TO SET ASIDE DEFAULT, QUASH
SERVICE, DISMISS FOR
IMPROPER SERVICE, LACK OF
PERSONAL JURISDICTION AND
FAILURE TO SERVE, AND FOR
SANCTIONS

Date: February 14, 2008
Time: 2:00 p.m.
Place: Courtroom of the Hon.
Claudia Wilken

I, Jennifer J. Johnston, declare:

1. I am a member of the law firm of Condon & Forsyth LLP, attorneys of record for defendant Bumbo (Pty) Ltd. ("Bumbo-Pty"). I have personal knowledge of the facts stated in this declaration, except for those facts stated upon information and belief and, as to those factors, I am informed and believe that they are true and correct. If called as a witness, I could competently testify to these facts. I submit this declaration in support of Bumbo-Pty's Motion to Set Aside Default, Quash Service, Dismiss for Improper Service, Lack of Personal

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Los Angeles, California 90067-6010
Telephone: (310) 557-2030

1 Jurisdiction and Failure to Serve, and For Sanctions.

2 2. I am informed and believe that in November 2007, Bumbo-Pty
3 learned through co-defendant, Target Corporation ("Target"), that this lawsuit had
4 been filed.

5 3. I am informed and believe that Bumbo-Pty had no information that it
6 had been served, but it learned through Target that Donald S. Edgar, plaintiff's
7 attorney, was claiming that he had served "Bumbo."

8 4. Bumbo-Pty initially retained the law firm of Condon and Forsyth LLP
9 ("C&F") to monitor the docket and ensure that default would not be taken.

10 5. Bumbo-Pty also requested C&F to contact plaintiff's attorney and
11 request information about the purported service.

12 6. On November 19, 2007, I sent a letter to plaintiff's counsel requesting
13 information regarding service of the summons and complaint. I further requested
14 that counsel advise C&F before a default was requested. A true and correct copy
15 of this letter is attached hereto as Exhibit "A."

16 7. I received a letter from plaintiff's counsel, Donald S. Edgar ("Edgar")
17 dated November 21, 2007. Edgar refused to provide me with any information
18 regarding service or to "enter into any agreements" with C&F regarding the
19 decision to seek default. A true and correct copy of this letter is attached hereto as
20 Exhibit "B."

21 8. I then sent another letter to plaintiff's counsel on November 21, 2007,
22 advising that C&F had no record of any service made on Bumbo-Pty and further
23 requesting counsel provide information and "refrain from any attempts to take a
24 default judgment against Bumbo." No response was received. A true and correct
25 copy of this letter is attached hereto as Exhibit "C."

26 9. C&F learned that plaintiff filed a proof of service on December 11,
27

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2007, claiming that she effected service on "Bumbo" by serving "Dione Buchanan" as "owner" in Conroe, Texas. C&F attempted to obtain information about the purported service and learned that the summons and complaint were delivered to Wartburg Enterprises, Inc. ("Wartburg"), a Texas distributor of the Baby Sitter.

10. On December 19, 2007, C&F was retained to defend Bumbo-Pty in this matter and to respond to the purported attempt at service. C&F attempted to contact personnel at Bumbo-Pty and learned that the plant had shut down for the last two weeks of the year for the holidays.

11. On December 20, 2007 (one court day before Christmas), plaintiff filed a request to enter default against "Bumbo." C&F learned about the filing of the request on December 21, 2007, by monitoring the docket. Plaintiff, at no time, attempted to contact C&F before filing the request to enter default.

12. C&F did not even receive a courtesy copy of the filing of the request.

13. Upon information and belief, the address that was served by plaintiff appears to belong to a facility owned by Wartburg. Wartburg acts as a distributor for the "Baby Sitter" but is a separate company incorporated in Florida and not an agent for service of process for defendant. A true and correct copy of Wartburg's Articles of Incorporation is attached hereto as Exhibit "D."

14. On December 21, 2007, I sent a *third* letter to plaintiff's counsel advising them that they had, in fact, not served Bumbo-Pty and requesting that they withdraw their Request to Enter Default. Again, C&F received no response to this letter. A true and correct copy of this letter is attached hereto as Exhibit "E."

15. From December 21-24, 2007, C&F drafted a motion to dismiss plaintiff's action for insufficiency of service of process and lack of personal jurisdiction. I forwarded declarations to support the motion to representatives of

CONDON & FORSYTH LLP
 1901 Avenue of the Stars, Suite 850
 Los Angeles, California 90067-6010
 Telephone: (310) 557-2030

1 Bumbo-Pty for signature. Due to the holidays and the closing of the plant, there
 2 has been a delay in obtaining the signed declarations.

3 16. On December 27, 2007, C&F learned from Target's counsel that a
 4 default had been entered against "Bumbo." On December 28, 2007, C&F filed this
 5 motion on behalf of Bumbo-Pty.

6 17. As of the date of this motion, I have still not received any
 7 communication from plaintiff's counsel regarding any service issue, other than the
 8 above-referenced letter of November 21, 2007.

9 18. Attached hereto as Exhibit "F" is a true and correct copy of Gerhard
 10 Wagenaar's ("Wagenaar") unsigned Declaration. Wagenaar is Financial Director
 11 for Bumbo-Pty. The declaration has been forwarded to Wagenaar for signature.
 12 Due to the holidays, there has been a delay in return of said declaration. I will file
 13 the signed declaration as soon as I am in receipt of such. I am informed and
 14 believe that the declaration is true and correct as prepared.

15 19. I have spent 10 hours of time in attempting to set aside the default in
 16 this action. This includes my time in preparation of the declarations, review of the
 17 Motion and Memorandum of Points and Authorities in Support Thereof,
 18 communications with my client, and communications with plaintiff's counsel. My
 19 hourly rate is \$375.

20 20. Most of the preparation of the Motion and Memorandum of Points
 21 and Authorities was completed by Lisa M. Pierce, Esq. ("Pierce"). Pierce spent
 22 41.2 hours on the preparation of this Motion. Pierce's hourly rate is \$185.

23 21. Jessica Viker is a paralegal at C&F ("Viker"). Viker has spent 5
 24 hours in monitoring the court's docket daily as well as in communications with
 25 plaintiff's counsel. Viker's hourly rate is \$110.

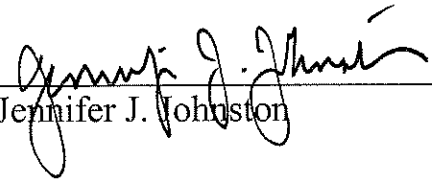
26 22. The total fees expended thus far in C&F's attempt to set aside the
 27

1 default are \$11,922. Bumbo-Pty is requesting this amount in sanctions against
2 Wendy D. Whitson, Donald S. Edgar, Jeremy R. Fietz, and Rex Grady.

3 23. I anticipate that myself, Pierce and Viker will spend additional time in
4 responding to any opposition papers received, preparing for the hearing in this
5 matter and traveling to said hearing. C&F reserves the right to submit further
6 declarations concerning additional expenses incurred.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed this 28th day of December, 2007 at Los Angeles, California.

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10 
11 Jennifer J. Johnston

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CONDON & FORSYTH LLP
1901 Avenue of the Stars, Suite 850
Los Angeles, California 90067-6010
Telephone: (310) 557-2030

CONDON
63140
Bumbo/Laura

CONDON & FORSYTH LLP

NEW YORK
LOS ANGELES

November 19, 2007

VIA FACSIMILE AND REGULAR U.S. MAIL

Donald S. Edgar, Esq.
THE EDGAR LAW FIRM
408 College Avenue
Santa Rosa, California 95401

**Re: Wendy D. Whitson, etc. v. Bumbo, et al.
United States District Court – Northern District of California
Case No. CV07-5597 CW
C & F File No.: 8123.63140**

Dear Mr. Edgar:

We are attorneys for Bumbo (Pty) Ltd. We understand that you filed the above-referenced lawsuit in the Northern District of California on November 2, 2007, and have named Bumbo as a defendant in that action.

At present, Bumbo has no information that it has received the summons and complaint in the above-referenced lawsuit by any purported means of service. Further, according to the court's docket, no proof of service showing any purported service on Bumbo has been filed.

If it is your contention that Bumbo has been served with a summons and complaint, we request that you advise us immediately and provide us with the details of the purported service, including the name of the person upon whom service was purportedly made, the date of the purported service, the place of the purported service, and the method by which the service was purportedly made.

Also, since Bumbo is a South African company and any attempts of service will need to be made through proper channels in South Africa, we request that you advise us immediately when you believe you have effected service on Bumbo in South Africa.

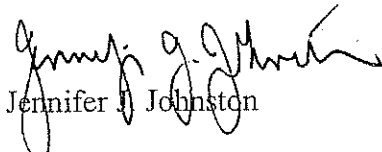
Lastly, if, at any time, you believe that you have effected service on Bumbo, we request that you advise us before you attempt any default proceedings against Bumbo.

CONDON & FORSYTH LLP

Donald S. Edgar, Esq.
November 19, 2007
Page 2

We thank you in advance for your anticipated cooperation with this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jennifer J. Johnston", is written over the printed name.

Jennifer J. Johnston

JJJ:cj

CONDON & FORSYTH LLP

New York
Los Angeles
Washington, DC

FACSIMILE TRANSMISSION

Date: November 15, 2007	No. of Pages including fax cover sheet: 2
From: Jennifer J. Johnston	Facsimile No.: (310) 557-1299

	RECIPIENT	COMPANY	FAX NO.	PHONE NO.
	Donald S. Edgar, Esq.	EDGAR LAW FIRM	707.578.3040	707.545.3200

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(310) 557-2030

Re: Whitson v. Bumbo, et al.

Please see the attached.

Thank you.

P. 1

* * * Memory TX Result Report (Nov. 19. 2007 5:29PM) * * *

1) Condon&Forsyth
2)

Date/Time: Nov. 19. 2007 5:23PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
2836 Memory TX	#06217075783040	P. 3	OK	

Reason for error

E. 1) Hang up or line fail

E. 3) No answer

E. 5) Exceeded max. E-mail size

E. 2) Busy

E. 4) No facsimile connection

CONDON & FORSYTH LLP

New York
Los Angeles
Washington, DC

FACSIMILE TRANSMISSION

Date: November 15, 2007	No. of Pages including fax cover sheet: 2
From: Jennifer J. Johnston	Facsimile No.: (310) 557-1299

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(310) 557-2030

Re: Whitson v. Bumba, et al.

Please see the attached.

Thank you.



EDGAR LAW FIRM

ATTORNEYS AND COUNSELORS AT LAW

408 COLLEGE AVENUE
SANTA ROSA, CALIFORNIA 95401
Phone (707) 545-3200 • Facsimile (707) 578-3040

Bumbo / Lamm
8123.63140
RECEIVED
NOV 26 2007
CONDON & FORSYTH LLP
Consp. File
RSJ

ATTORNEYS

DONALD S. EDGAR
(Also admitted to
Washington D.C. Bar)

21 November 2007

JEREMY R. FIETZ via Fax to (310) 557-1299 and U.S. Mail

REX GRADY Jennifer J. Johnston, Esq.
CONDON & FORSYTH LLP
1901 Avenue of the Stars, Ste. 850
Los Angeles, CA 90067-6010

E-Mail
don@classattorneys.com

jeremy@classattorneys.com

jrg@classattorneys.com

Re: Dylan Lamm, etc.; et al. v. Bumbo, et al.
United States District Court-Northern District
Case No. CV07-04807 MHP
Your file No. 8123.63140

Dear Ms. Johnston:

LEGAL ASSISTANTS

This letter is written to acknowledge receipt of yours of
November 15, 2007, regarding the above-captioned matter.

SHANNAH J. AHMED

SELENA A. LA RUE

E-Mail
sjm@classattorneys.com

sai@classattorneys.com

Please be advised that, with all due respect, we request that
you all do whatever you all need to do to represent your clients. At this
time, we respectfully decline to enter into any agreement(s) set forth in
your letter of November 15, 2007.

Very truly yours
EDGAR LAW FIRM

Donald S. Edgar, Esq.

DSE:sks

CONDON & FORSYTH LLP

NEW YORK
LOS ANGELES

November 21, 2007

VIA FACSIMILE AND U.S. MAIL

Donald S. Edgar, Esq.
EDGAR LAW FIRM
408 College Avenue
Santa Rosa, California 95401

Re: **Dylan Lamm, etc., et al. v. Bumbo, et al.**
United States District Court – Northern District
Case No. CV07-04807 MHP
C & F File No.: 8123.63140

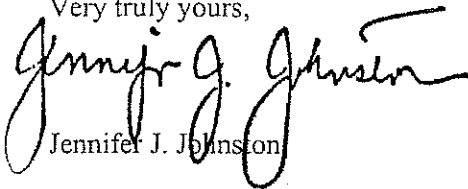
Dear Mr. Edgar:

This is to acknowledge receipt of your letter dated November 21, 2007, in which you refused to provide us with any details of the purported service on Bumbo in South Africa. We can interpret this only as an admission from you that you have not effected service of process through the proper channels.

As we previously advised you, Bumbo has no record of any attempts of purported service on it in South Africa and it remains our position that Bumbo has not been served. If you have any information contrary to this, we again invite you to provide it to us.

Also, we again request that you refrain from any attempts to obtain a default judgment against Bumbo. Should you chose to do so, we will have to advise the court of your lack of cooperation and seek whatever remedies may be appropriate.

Very truly yours,



Jennifer J. Johnston

IJJ:cj

CONDON & FORSYTH LLP

Donald S. Edgar, Esq.
November 21, 2007
Page 2

bcc: Rod D. Margo, Esq.

Danie le Roux
(via email Daniel@wwb.co.za)

Jakobus van der Walt
(via email jakobusv@wwb.co.za)

Michael North, Esq.
(via email michaeln@wwb.co.za)

PLEASE READ ALL INSTRUCTIONS BEFORE COMPLETING THIS FORM.

CORPORATION
REINSTATEMENTFLORIDA DEPARTMENT OF STATE
Secretary of State
DIVISION OF CORPORATIONS

FILED

07 JUN 26 AM 8:48

STATE
FLORIDADOCUMENT # P01000072771

1. Corporation Name

Wartburg Enterprises, Inc

2. Principal Office Address - No P.O. Box

12248 FM 1485

Suite, Apt. #, etc.

3. Mailing Office Address

12248 FM 1485

Suite, Apt. #, etc.

City & State

Conroe, TX

City & State

Conroe, TX

Zip

77306

Country

Montgomery

Zip

77306

Country

Montgomery

7. Name and Address of Current Registered Agent

Name

Grant Kaplan

Street Address (P.O. Box Number is Not Acceptable)

7200 W. Camino Real

Suite, Apt. #, Etc.

#102

City

Boca Raton

State

FL

Zip Code

33433

8. I, being appointed the registered agent of the above named corporation, am familiar with and accept the obligations of section 607.0505 or 617.0503, F.S.

Signature of
Registered Agent

REGISTERED AGENT MUST SIGN

Date

06/20/07

9. Names and Street Addresses of Each Officer and/or Director (Florida nonprofit corporations must list at least 3 directors)

Titles	Name of Officers and/or Directors	Street Address of Each Officer and/or Director	City / State / Zip
<u>Pres</u>	<u>R. GENGERS</u>	<u>7200 W. Camino Real, #102</u>	<u>Boca Raton, FL 33433</u>
<u>Vice Pres</u>	<u>M. Buchanan</u>	<u>12248 FM 1485</u>	<u>Conroe, TX 77306</u>
<u>Vice Pres</u>	<u>H. Dammann</u>	<u>11392 Ward Rd.</u>	<u>Conroe, TX 77306</u>

600104861936
06/26/07 01025 015 **1208.75\$76/27

10. I certify that I am an officer or director or the receiver or trustee empowered to execute this application as provided for in chapter 607 or 617, F.S. I further certify that when filing this reinstatement application, the reason for dissolution has been eliminated, the corporate name satisfies the requirements of section 607.0401 or 617.0401, F.S., that all fees owed by the corporation have been paid and the names of individuals listed on this form do not qualify for an exemption contained in Chapter 119, F.S. The information indicated on this application is true and accurate, and my signature shall have the same legal effect as if made under oath.

SIGNATURE:

SIGNATURE AND TYPED OR PRINTED NAME OF SIGNING OFFICER OR DIRECTOR

Mark Buchanan

Date

4/17/07

Daytime Phone #

832-276-6693

**FOR PROFIT CORPORATION
UNIFORM BUSINESS REPORT (UBR)**

DOCUMENT # P01000072771

1. Entity Name

Wartburg Enterprises, Inc.

FILED

03 FEB 21 AM 11:42

SECRETARY OF STATE
TALLAHASSEE, FLORIDA**DO NOT WRITE IN THIS SPACE**900012974659
02/21/03--01112--023 **300.00

2. Principal Place of Business

3. Mailing Address

Suite, Apt. #, etc.
130 NE 4th AveSuite, Apt. #, etc.
130 NE 4th AvenueCity & State
Deerfield Beach, FLCity & State
Deerfield Beach, FLZip
33441

Country

Zip
33441

Country

4. FEI Number

65-0883967

Applied For

Not Applicable

5. Certificate of Status Desired ☐\$8.75 Additional
Fee Required

DO NOT WRITE IN THIS SPACE

7. Name and Address of Current Registered Agent

Name

R. Gebens

Street Address (P.O. Box Number is Not Acceptable)

130 NE 4th Avenue

City
Deerfield Beach

FL

Zip Code
33441**DO NOT WRITE
IN THIS SPACE**

8. The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE

Signature, typed or printed name of registered agent and title if applicable.

(NOTE: Registered Agent signature required when reinstating)

DATE

9. This corporation is eligible to satisfy its Intangible
Tax filing requirement and elects to do so.
(See criteria on back) ☐January 1 - May 1 Fee is \$150.00
After May 1 Fee is \$550.00
Amended UBR is \$61.25
Make Check Payable to Department of State10. Election Campaign Financing
Trust Fund Contribution. ☐\$5.00 May Be
Added to Fees

11. OFFICERS AND DIRECTORS

TITLE NAME STREET ADDRESS CITY-ST-ZIP	PSUT R. Gebens 130 NE 4th Avenue Deerfield Beach, FL 33441	TITLE NAME STREET ADDRESS CITY-ST-ZIP	
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**DO NOT WRITE
IN THIS SPACE**

13. I hereby certify that the information supplied with this filing does not qualify for the exemption stated in Section 119.07(3)(i), Florida Statutes. I further certify that the information indicated on this report or supplemental report is true and accurate and that my signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears in Block 11 or on an attachment with an address, with all other like empowered.

SIGNATURE:

SIGNATURE AND TYPED OR PRINTED NAME OF SIGNING OFFICER OR DIRECTOR

Date

Daytime Phone #

FOR PROFIT CORPORATION UNIFORM BUSINESS REPORT (UBR)

DOCUMENT # 001000072771

1. Entity Name

Wartburg Enterprises, Inc.

DO NOT WRITE IN THIS SPACE

2. Principal Place of Business

3. Mailing Address

Suite, Apt. #, etc.

130 NE 4th Avenue

Suite, Apt. #, etc.

130 NE 4th Avenue

City & State

Deerfield Beach, Florida

City & State

Deerfield Beach, Florida

Zip

33441

Country

Zip

33441

Country

4. FEI Number

65-888 3967

Applied

Not App

5. Certificate of Status Desired ☐\$8.75 Additions
Fee Required

7. Name and Address of Current Registered Agent

Name

R. Gebers

Street Address (P.O. Box Number is Not Acceptable)

130 NE 4th Avenue

City

Deerfield Beach

FL

Zip Code

33441

DO NOT WRITE
IN THIS SPACE

8. The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE

Signature, typed or printed name of registered agent and title if applicable.

(NOTE: Registered Agent signature required when reinstating)

DATE

2/18/03

9. This corporation is eligible to satisfy its Intangible
Tax filing requirement and elects to do so.
(See criteria on back) ☐

January 1 - May 1 Fee is \$150.00

After May 1, Fee is \$550.00

Amended UBR is \$61.25

Make Check Payable to Department of State

10. Election Campaign Financing
Trust Fund Contribution. ☐\$5.00 Ma
Added to Fe

11. OFFICERS AND DIRECTORS

TITLE	PSUT	TITLE	
NAME	R. Gebers	NAME	
STREET ADDRESS	130 NE 4th Ave	STREET ADDRESS	
CITY-ST-ZIP	Deerfield Beach, FL-33441	CITY-ST-ZIP	
TITLE		TITLE	
NAME		NAME	
STREET ADDRESS		STREET ADDRESS	
CITY-ST-ZIP		CITY-ST-ZIP	
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NAME		NAME	
STREET ADDRESS		STREET ADDRESS	
CITY-ST-ZIP		CITY-ST-ZIP	

DO NOT WRITE
IN THIS SPACE

13. I hereby certify that the information supplied with this filing does not qualify for the exemption stated in Section 119.07(3)(i), Florida Statutes. I further certify that the information indicated on this report or supplemental report is true and accurate and that my signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears in Block 11 or on attachment with an address, with all other like empowered.

SIGNATURE:

SIGNATURE AND TYPED OR PRINTED NAME OF SIGNING OFFICER OR DIRECTOR

Date

Daytime Phone #

WARTBURG ENTERPRISES, INC.
130 N.E. 4TH Avenue
Deerfield Beach
Florida
33441

February 18, 2003

The Department of State
Division of Corporations
Tallahassee
Florida

Dear Sirs:


RE: WARTBURG ENTERPRISES, INC. P01000072771

We changed our address in December 2001 and filled out the relevant address change forms at the post office.

However, we never received the Annual Corporate Renewal form through the mail and only after our CPA asked us this month if we had paid the bill did we realize that the payment had not been made. We would appreciate it if you would accept the enclosed check for \$ 300.00, which will include the fees for 2002 and 2003 and also abate the penalty.

We apologize for any inconvenience caused.

Sincerely,



R. Gerbers (Pres)

FIDELITY, INC. - TALLAHASSEE, FLORIDA

Registered Office

2055 LITTLE SEAL ROAD

(Address)

TALLAHASSEE, FLORIDA 32308

(City, State, Zip)

385-6735

(Phone #)

OFFICE USE ONLY

FILED
01 JUL 24 PM 3:16
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
RECEIVED
01 JUL 24 PM 2:54
DIVISION OF CORPORATION

CORPORATION NAME(S) & DOCUMENT NUMBER(S) (if known):

1. Wootburg Enterprises, Inc.
(Corporation Name) (Document #)
2. _____
(Corporation Name) (Document #)
3. _____
(Corporation Name) (Document #)
4. _____
(Corporation Name) (Document #)

☒ Walk in ☐ Pick up time _____☐ Certified Copy☐ Mail out ☐ Will wait ☐ Photocopy☒ Certificate of Status

NEW FILINGS	
<input checked="" type="checkbox"/>	Profit
<input type="checkbox"/>	NonProfit
<input type="checkbox"/>	Limited Liability
<input type="checkbox"/>	Domestication
<input type="checkbox"/>	Other

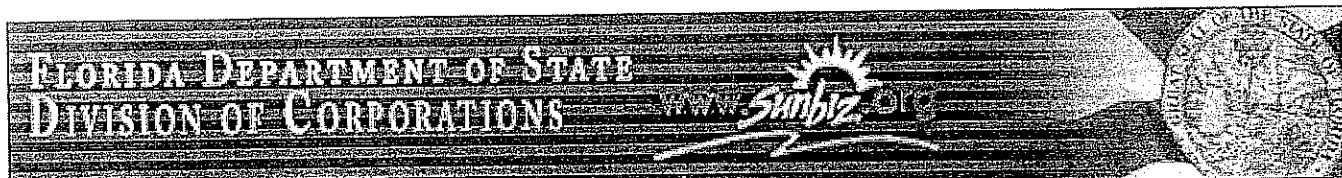
AMENDMENTS	
<input type="checkbox"/>	Amendment
<input type="checkbox"/>	Resignation of R.A., Officer/Director
<input type="checkbox"/>	Change of Registered Agent
<input type="checkbox"/>	Dissolution/Withdrawal
<input type="checkbox"/>	Merger

OTHER FILINGS	
<input type="checkbox"/>	Annual Report
<input type="checkbox"/>	Fictitious Name
<input type="checkbox"/>	Name Reservation

REGISTRATION/ QUALIFICATION	
<input type="checkbox"/>	Foreign
<input type="checkbox"/>	Limited Partnership
<input type="checkbox"/>	Reinstatement
<input type="checkbox"/>	Trademark
<input type="checkbox"/>	Other

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Detail by Entity Name

Florida Profit Corporation

WARTBURG ENTERPRISES, INC.

Filing Information

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Event Effective Date NONE

Principal Address

12248 FM 1485
CONROE TX 77306

Changed 06/26/2007

Mailing Address

12248 FM 1485
CONROE TX 77306

Changed 06/26/2007

Registered Agent Name & Address

KAPLAN, GRANT
7200 W CAMINO REAL
#102
BOCA RATON FL 33433 US

Name Changed: 06/26/2007

Address Changed: 06/26/2007

Officer/Director Detail

Name & Address

Title P

GEBERS, R
7200 W CAMINO REAL #102
BOCA RATON FL 33433

Title V

BUCHANAN, M
12248 FM 1485
CONROE TX 77306

Title V

DAMMANN, H
11392 WARD RD
CONROE TX 77306

Annual Reports

Report Year Filed Date

2005	06/26/2007
2006	06/26/2007
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Document Images

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ARTICLES OF INCORPORATION

ARTICLE I - NAME

The name of this corporation is Wartburg Enterprises, Inc.

ARTICLE II - PRINCIPAL OFFICE

The mailing address of this corporation shall be
C/O Grant Kaplan
20283 State Rd 7, Suite 400
Boca Raton, Florida 33498

ARTICLE III - PURPOSE

This corporation is organized for the purpose of transacting any or all lawful business.

ARTICLE IV - CAPITAL STOCK

This corporation is authorized to issue 100 shares of \$1.00 par value common stock which shall be designated as "Common Shares".

ARTICLE V - INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of this corporation is 3732 N.W. 16th Street, Fort Lauderdale, Florida 33311 and the name of the initial registered agent of this corporation at that address is Filings, Inc., a

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01 JUL 24 PM 3:16
SECRETARY OF STATE
TALLAHASSEE FLORIDA

Florida corporation.

ARTICLE VI - INITIAL BOARD OF DIRECTORS

The Corporation shall initially have one (1) director to hold office until the first annual meeting of stockholders and his successor shall have been duly elected and qualified, or until his earlier resignation, removal from office or death. The number of Directors may be either increased or decreased from time to time in accordance with the By-laws of the Corporation. The name and address of the initial Director is:

R. Gebers
C/O Grant Kaplan, 20283 State Rd 7, Suite 400
Boca Raton, Florida 33498

ARTICLE VII - INCORPORATOR

The name and address of the Incorporator signing these Articles is:

Filings, Inc., a Florida Corporation
3732 N.W. 16th Street
Fort Lauderdale, Florida 33311

ARTICLE VIII - PRE-EMPTIVE RIGHTS

Every shareholder, upon the sale for cash of any new stock of this corporation shall have the right to purchase his prorata share thereof (as nearly as may be done without issuance of fractional shares) at the price at which it is offered to others.

ARTICLE IX - INDEMNIFICATION

The corporation shall indemnify any Officer or Director, or any former Officer or Director, to the full extent permitted by law.

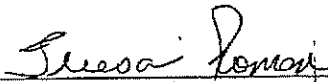
ARTICLE X - AMENDMENT

This corporation reserves the right to amend or repeal any provision contained in these Articles of Incorporation, or any amendment hereto, and any right conferred upon the shareholders is subject to this reservation.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation on the date of signing.

Dated: July 24, 2001

Filings, Inc.
by Teresa Roman, Vice-President


Incorporator

Certificate designating place of business or domicile for the service of process within Florida, naming agent upon whom process may be served.

In compliance with Section 607.0501, Florida Statutes, the following is submitted:

First that Wartburg Enterprises, Inc., desiring to organize or qualify under the laws of the State of Florida, has named Filings, Inc., a Florida corporation, located at 3732 N.W. 16th Street, Fort Lauderdale, Florida, as its agent to accept service of process within Florida.

Dated: July 24, 2001

Teresa Roman
Teresa Roman, Incorporator

Having been named to accept service of process for the above stated Corporation, at the place designated in this certificate, I hereby agree to act in this capacity. I further agree to comply with the provisions of all Statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Dated: July 24, 2001

Filings, Inc.
by Teresa Roman, Vice-President

Teresa Roman

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TALLAHASSEE FLORIDA

63162
Bumbo/Whitson

CONDON & FORSYTH LLP

NEW YORK
LOS ANGELES

December 21, 2007

VIA REGULAR MAIL AND FACSIMILE NO. 707-578-3040

Jeremy R. Fietz, Esq.
EDGAR LAW FIRM
408 College Avenue
Santa Rosa, California 95401

Re: Wendy D. Whitson, et al. v. Bumbo, et al.
United States District Court--Northern District
Case No. CV07-5597 CW
C&F File No.: 1720.63162

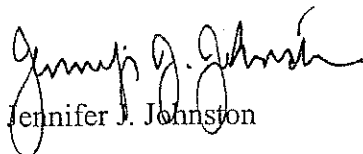
Dear Mr. Fietz:

As we previously advised your firm, we are attorneys for Bumbo (Pty.) Ltd. We have noted that on December 20, 2007, you filed a request to enter default against "Defendant Bumbo." In your request to enter default, you rely on an affidavit of service showing purported service on Bumbo through a Dione Buchanan in Conroe, Texas.

We are writing to advise that our client does not have any offices, officers, or employees in Texas. Further, contrary to the statements in the affidavit of service, Dione Buchanan is not an owner of "Bumbo." Additionally, the address at which the summons and complaint were purportedly served is an address for a Wartburg Enterprises, Inc. Wartburg Enterprises, Inc. is not authorized to accept service of process on behalf of Bumbo. Accordingly, any attempts at service on Bumbo by delivering the summons and complaint to Wartburg Enterprises is not effective service.

We request that you immediately withdraw your request to enter default which you have improperly filed with the court.

Very truly yours,


Jennifer J. Johnston

JJJ:cj

cc: Ms. Gail Trabish
(via email gtrabish@bjg.com)

CONDON & FORSYTH LLP

New York
Los Angeles
Washington, DC

FACSIMILE TRANSMISSION

Date: December 21, 2007	No. of Pages including fax cover sheet: 2
From: Jennifer J. Johnston	Facsimile No.: (310) 557-1299

	RECIPIENT	COMPANY	FAX NO.	PHONE NO.
	Jeremy R. Fietz, Esq.	THE EDGAR LAW FIRM	707.578.3040	707.545.3200

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Re: Whitson v. Bumbo, et al.

Please see the attached.

Thank you.

* * * COMMUNICATION RESULT REPORT (DEC. 21. 2007 3:14PM) * * *

TTI CONDON & FORSYTH LA 310-557-1299

TRANSMITTED/STORED DEC. 21. 2007 3:13PM
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FILE MODE	OPTION	ADDRESS	RESULT	PAGE
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E-2) BUSY
 E-4) NO FACSIMILE CONNECTION

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New York
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Date: December 21, 2007	No. of Pages including fax cover sheet: 2
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Jeremy R. Fietz, Esq.	THE EDGAR LAW FIRM	707.578.3040	707.545.3200

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 (310) 557-2030

Re: Whitson v. Bumbo, et al.

Please see the attached.

Thank you.

1 Rod D. Margo (State Bar No.: 097706)
Jennifer J. Johnston (State Bar No.: 125737)
2 CONDON & FORSYTH LLP
1901 Avenue of the Stars, Suite 850
3 Los Angeles, California 90067-6010
Telephone: (310) 557-2030
4 Facsimile: (310) 557-1299
Email: rmargo@condonlaw.com
5 Email: jjohnston@condonlaw.com

6 Attorneys for Defendant
BUMBO (PTY) LTD.
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 WENDY D. WHITSON, etc., et al.

12 Plaintiff,

13 vs.

14 BUMBO, et al.,

15 Defendants.
16
17
18

Case No. CV-07-5597 CW

DECLARATION OF GERHARD
WAGENAAR IN SUPPORT OF
BUMBO (PTY) LTD.'S MOTION
TO DISMISS FOR INSUFFICIENT
SERVICE OF PROCESS AND
LACK OF PERSONAL
JURISDICTION

19 I, Gerhard Wagenaar, declare:

20 1. I am Financial Director of Bumbo (Pty) Ltd. This declaration is
21 submitted in support of Bumbo (Pty) Ltd.'s motion to dismiss for insufficient
22 service of process and lack of personal jurisdiction. I have personal knowledge of
23 the facts attested to in this declaration, except for those facts stated upon
24 information and belief, and, as to those facts, I believe them to be true. If called
25 upon to do so, I could and would competently testify to all matters contained
26 herein.

27 2. Bumbo (Pty) Ltd. is a manufacturing company located in South Africa
28 which manufactures the Bumbo Baby Sitter, an infant seat.

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Los Angeles, California 90067-6010
Telephone: (310) 557-2030

1 3. Bumbo (Pty) Ltd. manufactures the Bumbo Baby Sitter pursuant to a
2 manufacturing agreement with a separate legal entity, which trades as Bumbo
3 International. Bumbo International markets and distributes the Bumbo Baby Sitter
4 to various markets would-wide.

5 4. Bumbo (Pty) Ltd. is a private company which has been organized
6 under the laws of South Africa and has its principal place of business in Pretoria,
7 South Africa.

8 5. Bumbo (Pty) Ltd.'s one and only manufacturing plant and its
9 corporate headquarters are located in Pretoria, South Africa.

10 6. The Bumbo Baby Sitter is manufactured and assembled entirely in
11 South Africa by Bumbo (Pty) Ltd.

12 7. All employees of Bumbo (Pty) Ltd. are employed at its manufacturing
13 plant or corporate headquarters in Pretoria, South Africa.

14 8. All officers and directors of Bumbo (Pty) Ltd. also work and reside in
15 South Africa.

16 9. Bumbo (Pty) Ltd. does not now have and never has had any office,
17 warehouse or manufacturing facility in the states of California or Texas, or any
18 place else in the United States.

19 10. Bumbo (Pty) Ltd. does not now have and never has had any
20 employees in the states of California or Texas, or any place else in the United
21 States.

22 11. Bumbo (Pty) Ltd. does not now have and never has had a business
23 license in the states of California or Texas, or any place else in the United States,
24 and has never been registered to do business in any place in the United States.

25 12. Bumbo (Pty) Ltd. does not now own and never has owned any real or
26 personal property in the states of California or Texas, or any place else in the
27 United States.
28

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Los Angeles, California 90067-6010
Telephone: (310) 557-2030

1 13. Bumbo (Pty) Ltd. does not now maintain and never has maintained a
2 bank account in the states of California or Texas, or any place else in the United
3 States.

4 14. Bumbo (Pty) Ltd. does not now have and never has had a California
5 or Texas telephone number, or a telephone number in any other place in the United
6 States.

7 15. Bumbo (Pty) Ltd. does not now have and never has had a mailing
8 address in the states of California, or any place else in the United States.

9 16. Bumbo (Pty) Ltd. has never paid any taxes in the states of California
10 or Texas, or any place else in the United States.

11 17. Bumbo (Pty) Ltd. has never conducted any meetings of its board of
12 directors in the states of California or Texas, or any place else in the United States.

13 18. Bumbo (Pty) Ltd. does not maintain a sales force in the states of
14 California or Texas, or any other place in the United States.

15 19. Bumbo (Pty) Ltd. does not now advertise and never has advertised in
16 the states of California or Texas, or any place else in the United States.

17 20. Bumbo (Pty) Ltd. does not now have and never has had any agents for
18 service of process in the states of California or Texas, or any place else in the
19 United States.

20 21. Bumbo (Pty) Ltd. does not now have and never has had any
21 distributors in the states of California or Texas, or any place else in the United
22 States, who are authorized to accept service of process on behalf of Bumbo.

23 22. I am informed and believe that a company called Wartburg
24 Enterprises, Inc., located in Conroe, Texas, is a distributor of the Bumbo Baby
25 Sitter in Texas. Wartburg Enterprises, Inc. is not the sole distributor of the Bumbo
26 Baby Sitter in the United States.

27 23. Bumbo (Pty) Ltd. and Wartburg Enterprises, Inc. are separate
28

1 companies and do not share common shareholders, officers, directors, employees
2 or offices.

3 24. Wartburg Enterprises, Inc. is not authorized by Bumbo (Pty) Ltd. to
4 accept service of process on behalf of Bumbo (Pty) Ltd.

5 25. I am informed and believe that a certain Dione Buchanan received a
6 copy of the summons and complaint in this matter at Wartburg Enterprises, Inc.'s
7 facility located at 12248 FM 1485, Conroe, Texas 77306.

8 26. Dione Buchanan is not an owner, officer, director or employee of
9 Bumbo (Pty) Ltd.

10 27. Dione Buchanan is not authorized by Bumbo (Pty) Ltd. to accept
11 service of process on behalf of Bumbo (Pty) Ltd.

12 28. Bumbo (Pty) Ltd. does not maintain any offices or employees at
13 12248 FM 1485, Conroe, Texas 77306.

14 I declare under penalty of perjury under the laws of the United States of
15 America that the foregoing is true and correct.

16 Executed this ____ day of December, 2007 at _____.

17
18
19 _____
Gerhard Wagenaar

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